

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID MICHAELS,

Plaintiff,

-v-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

No. 12-cv-9213 (RJS)(GWG)
ORDER ADOPTING
REPORT AND RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Plaintiff's attorneys move pursuant to 42 U.S.C. § 406(b) for the Court's approval of an award of attorney's fees in the amount specified under their retainer agreement with Plaintiff. (Doc. No. 38.) Now before the Court is the Report and Recommendation of the Honorable Gabriel W. Gorenstein, Magistrate Judge, dated June 24, 2016, recommending that the motion be granted in the amount of \$76,355.50 (Doc. No. 42 ("R&R")). For the reasons set forth below, the Court adopts the R&R in its entirety.

A district court may accept, reject, or modify, in whole or in part, the findings or recommendations made by a magistrate judge. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *Grassia v. Scully*, 892 F.2d 16, 19 (2d Cir. 1989). A court may accept those portions of a report to which no specific, written objection is made, as long as the factual and legal bases supporting the findings are not clearly erroneous. *See Greene v. WCI Holdings Corp.*, 956 F. Supp. 509, 513 (S.D.N.Y. 1997) (citing Fed. R. Civ. P. 72(b) and *Thomas v. Arn*, 474 U.S. 140, 149 (1985)).

Here, no objections to Judge Gorenstein's R&R have been filed. In fact, the government does not oppose Plaintiff's attorneys' motion. (Doc. No. 41.) Furthermore, the Court finds no clear error in Judge Gorenstein's careful analysis of the factors relevant to approval of a fee award

pursuant to 42 U.S.C. § 406(b) and his conclusion that the fee request is appropriate in this case. (R&R 1-2.) The Court also finds that Judge Gorenstein's decision to award \$76,355.50, instead of the \$76,381.73 requested by Plaintiff's attorneys, is not clearly erroneous. In fact, even if the Court were to review the R&R *de novo*, the Court would reach the same result.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's attorneys' motion for approval of attorneys' fees is granted in the amount of \$76,355.50. The Clerk is respectfully directed to terminate the motion pending at docket number 38.

SO ORDERED.

Dated: July 29, 2016
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

